

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), a former chairman of the Armed Services Committee and now ranking member of the Armed Services Committee.

Mr. HUNTER. Madam Speaker, I thank the gentleman for yielding.

Let me just say that I have examined and analyzed a number of battlefield situations and that this bill does not take care of a problem that we have with respect to accessing communications in time to take action in a meaningful way. Whether the insurgents are making a strike, moving people, moving equipment, moving hostages, those first few hours are what you might analogize as the golden hours, the time when you can make a difference. And right now we have a substantial delay on the battlefield that could have been fixed with this bill. It is not fixed with this bill, and I am deeply disappointed because of that. And I hope, my colleagues, that we can fix this in the near future.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. ROGERS), who is also a member of the Intelligence Committee.

Mr. ROGERS of Michigan. Madam Speaker, I was an FBI agent and I worked organized crime in Chicago, and I did criminal title III work, which is equivalent to FISA on the intelligence side. I developed the sources. I did the debriefings. I did the surveillances. I did the interviews. I talked to lawyers. I talked to more lawyers. It is a very high standard to gain probable cause to listen to United States citizens' conversations. And it should be, and we should protect it. It should be that hard.

But I am going to tell you what we are going to do with this bill today. We are going to make it harder for us to go after terrorists who are trying to kill Americans than it was for me to go after organized criminals in Chicago. That is wrong.

And I think the intentions are right, but we did take the time to read the bill that we got this afternoon. There are some real problems with the language in here.

Number one is this whole thing was established so that we could be technology neutral. And I am just going to address the first paragraph. I think others are going to talk about other things. Because often you are referring to section 105 where it says a court order is not required for those who are not located in the United States. But if you read that whole paragraph, it's not technology neutral. You have set the bar beyond what our technology will be allowed in order to comply with the law.

It shouldn't matter if a terrorist is calling a terrorist from Pakistan or Saudi Arabia. We shouldn't care how or what technology they use. It should not matter. If what you say that you don't care that foreign terrorists who

are talking to foreign terrorists, that we should not have to have a warrant, this language is wrong. It's wrong. And the people who have to follow the law tell us it's wrong.

If you honestly believe this, then let's sit down. The gentleman from California was right. In about an hour we could have this worked out. Everybody would be happy, and we could protect the citizens of the United States, not only their civil liberties at home but from the terrorists who are today planning attacks against the United States.

And we all know in a classified way the fact that this is not fixed has cost American lives.

No more screwing around. Let's sit down. Let's work it out. Let's get this right.

Mr. CONYERS. Madam Speaker, I yield myself 30 seconds.

I want to relieve the tensions of my friend from Michigan. Foreign to foreign does not require a warrant. I don't know how many times I am going to have to say that. Foreign to foreign does not require a warrant.

The second thing that will make you much happier than you are now: Basket warrants authorized by the court make it easier to get warrants, not harder, Mr. ROGERS.

Madam Speaker, I am happy to yield 1 minute to JANE HARMAN from California, the former ranking member on the Intelligence Committee for many years.

Ms. HARMAN. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, only a few of us in this House are fully briefed on the terrorist surveillance program. It gives those who implement it incredible tools to find people who would harm us or to engage in unprecedented violations of Americans' constitutional rights for improper political or ideological reasons.

Most of this bill is not in dispute. But the key disagreement is whether a foreign surveillance program with unprecedented reach into the personal communications of terrorists or innocent Americans should be subject to supervision by an article III court. As you have just heard, that review comes in the form of a single warrant approving the contours of the program, called a "basket warrant." Our bill permits time to get that warrant while engaging in surveillance.

So a vote for our bill is a vote for sophisticated surveillance tools needed to catch terrorists and a vote to assure that those tools are not abused. I urge its bipartisan support.

Mr. SMITH of Texas. Madam Speaker, I yield 3 minutes to the gentlewoman from New Mexico (Mrs. WILSON), a member of the Intelligence Committee.

Mrs. WILSON of New Mexico. Madam Speaker, the Director of National Intelligence came to the Congress in April and told us that we were not listening to things we needed to be listen-

ing to, that we had a problem. And since then we have had numerous hearings, most of them in closed session, about the scope and scale of this problem. And it is worse than we ever thought it was. And, Ms. HARMAN, I would tell you it is much worse than when you served on the committee.

He said, in open session in the Senate Select Committee on Intelligence, "We are missing a significant portion of what we should be getting."

It is imperative that we solve this problem before we leave here.

This morning without any agreement, without any prior discussion, the Democrats' leadership introduced the bill we are considering tonight. There is no agreement on the text with Republicans in the House; there is no agreement with the Senate, Democrat or Republican; and there is no agreement with the Director of National Intelligence or with the President. In fact, the Director of National Intelligence had not seen the bill until after we were discussing the rule here on the floor.

I rise today to oppose this legislation. I must oppose it because it doesn't solve the problem that we must solve. And, in fact, it makes it worse.

The Director of National Intelligence told us this afternoon in writing that "The House proposal is unacceptable and I strongly oppose it." He also said, "The House proposal would not allow me to carry out my responsibility to provide warning and to protect the Nation."

This bill will not allow our Director of National Intelligence, who has 40 years of experience in this field, the former Director of the National Security Agency under President Clinton, it would not allow him to carry out his duties to protect this Nation. We are going in the wrong direction.

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I would urge my colleagues to reject this bill before us tonight; and I would urge the Speaker, Ms. PELOSI, to bring another bill to the floor of this House that can be supported by the Senate, by the Republicans, by the Democrats and by our intelligence community and signed by the President so we can close this intelligence gap.

But what does it matter? Why should people care? We all remember where we were the morning of 9/11 and who we were with, what we were wearing, who we called first, who we checked on. You never remember the crisis that doesn't happen because it's prevented by good intelligence.

Mr. REYES. Madam Speaker, it is my privilege to yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. I thank our distinguished chairman of the House Intelligence Committee.

I have listened very, very intently to the discussion on the floor this evening, as well as the news programs that have covered the debate about the